

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ORDER

Pending before the Court is defendant Allergan USA, Inc.'s "Motion for a Name Change."

Defendant Allergan USA, Inc. moves that the Court change all previous docket entries and notices of Electronic Filings in the above-captioned case that concern or were filed by defendant Allergan USA, Inc. to reflect that Allergan, Inc. was the true filer/defendant. Plaintiff has not responded to the motion, and the time to do so has expired.

In support of its motion, defendant Allergan USA, Inc. states that in several of the documents it has filed, it has stated that it was improperly named and served and defendant Allergan, Inc. is the proper defendant in this action. Defendant Allergan USA, Inc., however, has never formally brought the issue of misnomer before the Court. In response to the complaint, Allergan USA, Inc. did not file a motion to dismiss for failing to name the proper party. A parenthetical in the opening paragraph of a legal memorandum is not the proper method by which to bring the issue to the Court's attention.

Plaintiff named defendant Allergan USA, Inc. as a defendant in this case, and the defendant has used the Court's EC/ECF filing system to file documents on behalf of defendant Allergan USA, Inc. The proper means by which to correct a misnomer, if indeed there is one in this case, would

be for plaintiff to file a motion to amend the complaint to substitute a corporate party. See 3 Moore's Federal Practice § 15.16[2] (3d ed. 2010).

Accordingly,

IT IS HEREBY ORDERED that Allergan USA, Inc.'s Motion for a Name Change is **DENIED**. [Doc. 28]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 6th day of December, 2010.